

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 20917 (Application 30229)
Chalone Wine Group–Acacia Winery

**ORDER APPROVING CHANGE IN PLACE OF USE
AND AMENDING THE PERMIT**

SOURCE: Unnamed Stream tributary to Huichica Creek
COUNTY: Napa

WHEREAS:

1. Permit 20917 was issued to Chalone Wine Group–Acacia Winery on May 12, 1997, pursuant to Application 30229.
2. A petition to increase the place of use under Permit 20917 was filed with the State Water Resources Control Board (SWRCB) on May 19, 1997, and subsequently amended to include additional acreage on March 29, 1999. Permittee proposed to combine the place of use under Permit 20917 and License 7477 (Application 19203) by interconnecting the two separate irrigation systems to maximize use of water within the combined places of use. The SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on July 16, 1999, and no protests were received.
3. The SWRCB has determined that the petition for change in place of use does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water. In order to ensure that this change does not result in an increase in the total amount of water diverted under Permit 20917 and License 7477, a term limiting the combined diversion to storage under these rights should be added to Permit 20917.
4. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the permit making the permittee aware of possible obligations resulting from these acts.
5. There is the possibility that buried archeological deposits may be present and accidental discovery could occur. In compliance with the California Environmental Quality Act, which states that a Lead Agency is required to make a provision for historical or unique archeological resources accidentally discovered during construction or operation of projects, a condition should be included in the permit requiring notification of the Chief of the Division of Water Rights if project activities uncover any buried archeological materials.

NOW, THEREFORE, IT IS ORDERED THAT PERMIT 20917 IS AMENDED TO READ AS FOLLOWS:

1. The description of the place of use under Permit 20917 is amended to read as follows:

2 acres within the NW¼ of SW¼ of projected Section 31, T5N, R4W, MDB&M
9 acres within the NE¼ of SW¼ of projected Section 31, T5N, R4W, MDB&M
4 acres within the SW¼ of SW¼ of projected Section 31, T5N, R4W, MDB&M
38 acres within the SE¼ of SW¼ of projected Section 31, T5N, R4W, MDB&M
12 acres within the NW¼ of SE¼ of projected Section 31, T5N, R4W, MDB&M
35 acres within the SW¼ of SE¼ of projected Section 31, T5N, R4W, MDB&M
100 acres total, as shown on map on file with the SWRCB.

1. The following term regarding the maximum amount of combined diversion to storage under Permit 20917 and License 7477 is added to Permit 20917:

The total quantity of water collected to storage under Permit 20917 and License 7477 (Application 19203) shall not exceed 34 acre-feet per year.

(0000005L)

2. The following Endangered Species and Archeological conditions are added to Permit 20917:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.


(0000014)

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

4. All other conditions of Permit 20917 are still applicable.

STATE WATER RESOURCES CONTROL BOARD


Edward C. Anton, Chief
Division of Water Rights

Dated: MAR 13 2002

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20917

Application 30229 of Acacia Winery, Chalone Wine Group

2750 Las Amigas Road, Napa, CA 94559

filed on March 1, 1993, has been approved by the State Water Resources Control Board
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream

Huichica Creek thence

Hudeman Slough thence

Second Napa Slough thence

Sonoma Creek thence

San Pablo Bay

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Township	Range	Base and Meridian
By California Coordinate System, Zone 2					
North 206,100 feet and East 1,899,850 feet	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	31	5N	4W	MD

* projected

County of Napa

SWRCB 14 (6-94)

Post-it® Fax Note	7671	Date	# of pages ▶
To <u>Teves A.</u>	From <u>Anthony</u>		
Co./Dept.	Co.		
Phone #	Phone #		
Fax #	Fax #		

3. Purpose of use:	4. Place of use:	Section *	Township	Range	Base and Meridian	Acres
Irrigation	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	31	5N	4W	MD	4
	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	31	5N	4W	MD	30
	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	31	5N	4W	MD	2
	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	31	5N	4W	MD	4
					TOTAL	40

* projected

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 25 acre-feet per annum to be collected from October 1 of each year to June 1 of the succeeding year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Complete application of the water to the authorized use shall be made by December 31, 2006. (0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

10. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for

the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

12. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe or alternative facility has been installed in the dam to the Chief of the Division of Water Rights for approval. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

13. Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoir.

Permittee shall record the staff gage readings on or about November 1 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

Permittee shall allow a designated representative of Heublein, Inc. and Beckstoffer Vineyards and all successors in interest reasonable access to the reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoir. (0070047)
(0100047)

14. This permit is specifically subject to the prior rights of Heublein, Inc. - B.V.5 under appropriation issued pursuant to Application 20380, and Beckstoffer Vineyards under appropriation issued pursuant to Applications 25630 and 29852. (000T001)

15. Whenever the prior storage rights of Heublein, Inc. under License 8959 issued pursuant to Application 20380 and Beckstoffer Vineyards under License 12902 issued pursuant to Application 29852 and any permit issued pursuant to Application 29852 are not satisfied by April 30 of any year, water collected to storage under this permit during the current collection season shall be immediately released at the maximum practicable rate to the extent necessary to satisfy said prior downstream storage rights. Permittee shall not be obligated to release water in the reservoir below the previous November 1 staff gage reading unless permittee has withdrawn water from the reservoir for consumptive purposes since November 1. (0000051)

16. To prevent degradation of water quality in the tributary to Huichica Creek, permittee shall operate and maintain winery wastewater pond in a manner that prevents potential discharge of wastewater into the onstream irrigation reservoir. (0400500)

17. No water shall be discharged from the winery wastewater pond until permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, San Francisco Bay Region, pursuant to Water Code Section 13260, and the Regional Board has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. (0290101)

18. To prevent impacts to bank stability and water quality, vineyard planting and cultivation activities shall not encroach within a 30 foot setback around the perimeter of the irrigation reservoir, as measured from the high-water line. (0400500)

19. To control erosion and minimize impacts to water quality, a permanent vegetation buffer shall be established around the reservoir. A minimum of one tree and two shrubs shall be planted for every 15 feet of shoreline along the east perimeter of the irrigation reservoir as measured at the high water mark from subsurface inflow pipe to east edge of dam. Trees and shrubs shall be spaced within 100 feet of the east shoreline. Grasses or other permanent ground cover shall be established between woody plants on east perimeter and shall continue over compacted dam face and surface, west perimeter, and shared levee between wastewater basin and irrigation reservoir. All vegetation must be consistent with those species found in the area and shall be approved by the California Department of Fish and Game or the Napa County Resource Conservation District prior to furnishing and planting.

Trees, shrubs and permanent ground cover shall be planted within one year after issuance of the water right permit, and shall be maintained such that 75 percent have survived after three years. After completion of the planting program, photo documentation showing the vegetated reservoir perimeter shall be submitted to the Chief of the Division of Water Rights. Vegetation buffer shall be maintained throughout the life of the project. (0400500)

20. Permittee shall cooperate with the Napa County Resource Conservation District (NCRCD) in carrying out the Natural Resource Protection and Enhancement Plan for the Huichica Creek Watershed in accordance with NCRCD's May, 1993 document entitled: Huichica Creek Watershed: Natural Resource Protection and Enhancement Plan, or any appropriate amendments thereto. A copy of this document is on file with the State Water Resources Control Board. (0400500)

21. Prior to diversion of water, Permittee shall comply with all local ordinances and with those state and federal permit requirements related to the project. (000J001)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **MAY 12 1997**

STATE WATER RESOURCES CONTROL BOARD

for David R. Beringer
Chief, Division of Water Rights